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APPENDIX III.

(1)

(a) Letter from the Secretary to the State Legislature, Government Estate, Mount Road, Madras-2, to the Advocate-General, Madras, dated 9th May 1955, No. 2871/55-4-M.L.

[Committee of Privileges—Definition of the "Precincts of the House" with regard to the Assembly.]

Under rule 187 of the Madras Assembly Rules, the Hon. the Speaker of the Madras Legislative Assembly referred to the Committee of Privileges the question as to what construction should be put on the expression "Precincts of the House" as regards this Legislative Assembly. A copy of the speech delivered by the Hon. the Speaker explaining the circumstances necessitating this reference to the Committee is enclosed.

2. Accordingly the Committee of Privileges met on 4th April 1955 and it was decided to obtain the opinion of the Advocate-General as to the exact meaning of the expression 'precincts' with special reference to the Government House Estate. Copy of a note on the matter circulated to members on that day and a copy of that day's proceedings are also enclosed together with a rough sketch showing the location of the buildings connected with the Legislative Assembly in the Government Estate, Mount Road.

3. The Committee will very much like to know the exact scope of the area covered by the word 'precincts' so far as this Assembly is concerned; which buildings or portions of buildings will be usually and can be legally included in that term and the principles on which the area meant by that term should be exactly and definitely demarcated to arrive at a correct decision on the matter.

4. I am therefore to request you to kindly forward your opinion in the matter.

(b) *Opinion of Advocate-General—No.* 171-1.

[Committee of Privileges—Definition of the "Precincts of the House" with regard to the Assembly—Letter No. 2871/55-4-M.L., dated 9th April 1955, from the Secretary, State Legislative Assembly, Government Estate, Mount Road, Madras.]

I am in agreement with the general tenor of the two notes which have been placed before the Privileges Committee. There is little guidance to be got from the text books or case directly relevant to the point referred to me. The distinction to be borne in mind is between the different kinds of privileges. In Keir and Lawson—Cases in Constitution Law, III Edition, parliamentary privilege is summarized in Chapter III beginning at page 71. At page 73,

the privileges are stated as (1) exclusive jurisdiction over all questions which arise within the walls of the House, except, perhaps in case of felony, and (2) certain privileges which attach ot members of freedom, e.g., freedom from arrest. In the particular context, freedom from arrest for criminal process is not claimed as a privilege. Therefore, we limit ourselves to the matter that the House itself has exclusive jurisdiction within the walls of the House. As pointed out in the note this is complicated by the fact that the Houses of Parliament are located in a compact building. When Parliament is sitting entry is with the permission of the Speaker and when Parliament is not sitting entry to the premises is with the permission of the Ministry of Works. Even to-day it is a Royal Palace. I, therefore, agree that it is for the House itself to determine what is to be regarded as " precincts of the House ". We must not lay undue stress on the word ' precincts ' for the reason that it just happens to be a phrase which was used in a particular ruling in which context no special meaning attaches to the words other than the Palace of Westminster. Control over the entire area is vested in the House on the principle, " All the privileges that can be required for the energetic discharge of their duties (inherent in that high trust) are conceded without a murmur or a doubt ". We may note that in *Kind v. Graham Campbell*, 1935-1 K.B., 594, the two phrases " in the precincts of the House " and " within the walls of the House " are used indiscriminately. At the bottom of page 598 (in the argument of the Attorney-General) the regulation of provision for refreshment for the mind in the library and refreshment for the body in the kitchen are also claimed as " internal affairs " of the House. Therefore, the problem in our case is that the affairs of the House are not conducted in a compact area. The matter of privilege being one entirely for the House, it can determine what it will regard as the " precincts of the House ". Giving my views for the Committee's consideration, I would consider the entire Assembly Chamber building including all the rooms marked 1 to 12 as ' precincts '. The Party rooms and the Committee rooms in the Legislators' Hostel Nos. 1 to 7 and the Library can certainly be declared to be within the " precincts of the House ". The cafeteria also can be declared to be within the precincts of the House if it is under the control of the Assembly Secretariat. On the other hand, the Legislators' Hostel where members live and the Ministers' rooms may not come within this definition. But an exception can be made that the entire building of Ministers' rooms will be regarded as " precincts of the House " during the times when Committees of the House are functioning there and for a period specified, say, an hour before and after the said Committee meetings are held. The same principles would apply to any rooms in the Fort St. George Secretariat. When meetings of Committees are held there, those are applicable to both rooms and veranda.

MADRAS, V. K. THIRUVENKATACHARI,
15th April 1955. *Advocate-General.*

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(2)

(*a*) Letter from the Secretary to the State Legislature, Government Estate, Mount Road, Madras-2, to the Advocate-General, Madras, dated 20th April 1955, No. 2871/55-6-M.L.

[Committee of Privileges—Definition of the "Precincts of the House" with regard to the Assembly. *Reference.*—(i) This Secretariat letter No. 2871/55-4-M.L., dated 9th April 1955, and (ii) Your letter No. 171-1, dated 15th April 1955.]

I am to thank you for your opinion and to forward the following for further clarification :—

You have opined that the main Assembly Buildings, Party Rooms, Library and the Cafetaria may be included in the definition "precincts of the House". These buildings are separated from one another and are connected by means of long thoroughfares which are used by the public also without the permission of the Speaker. I am to enquire whether these thoroughfares would also come within the meaning of "precincts" and whether it would be a breach of privilege if a member is served criminal process on his way to and from the main building and to and from any one of the other buildings also. The rough sketch sent to you last time is attached.

(*b*) Reply of Advocate-General—No. M.S. 197-1.

[Committee of Privileges—Definition of "Precincts of the House" with regard to the Legislative Assembly. *Reference.*—Letter No. 2871/56-6-M.L., daetd 29th April 1955, from the Secretary to the State Legislature.]

Except where it is possible to have a well-defined passage with a defined boundary by way of fence on either side, it would not be correct to declare the thoroughfares between the buildings as part of the "precincts of the House". From the plan, it appears this can possibly be done with reference to the Cafetaria and the Ministers' Rooms. If the decision is taken to do this, then the boundaries should be marked by a fence and the declaration should refer to the boundaries so marked.

2. With regard to the service of criminal process when the Member is on the way to and from any one of the other buildings, my view is that this cannot properly be taken up as part of the question of invasion of the "precincts of the House". This matter may be separately considered when you are defining the limits of privilege in relation to the service of process, etc., during the sittings of the House. In that connection, we may consider a definition of the sitting of the House and provide that the service of a process during the sittings may be after notice to the Secretary and to the Minister, and if necessary with the permission of the

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Hon. the Speaker. In that connection, it may be proper to say that the period of sittings of the House will cover the period of interval and also include the time when Members resort to the common rooms or cafetaria during the hours of the sittings.

MADRAS,
17*th May* 1955.

V. K. THIRUVENKATACHARI,
Advocate-General.

APPENDIX IV.

(1)

Letter from the Secretary to the State Legislature, Government Estate, Madras-2, to LEON J. RAYMOND, ESQ., O.B.E., B.A., Clerk of the House of Commons, Ottawa, Ont., Canada, dated 30th May 1955, No. 2871/55-10-M.L.

During the month of February 1955, the Speaker of the Madras Legislative Assembly received a letter from a Magistrate in one of the districts in the State to the effect that a bailable warrant had been issued for the arrest of a member of the Assembly. The said member was residing in one of the Legislators' Hostels inside which the Legislature Committee Room is also now located. This Hostel, a separate building, is situated to the north-west of the Assembly Chamber, at a distance of about 75 yards with one or two other buildings and two roads in between. As the serving of criminal process "within the precincts of the House" when the House is sitting, would amount to breach of privilege, a question has arisen as to what would constitute "precincts".

The Speaker, on the 14th March 1955, referred to the Committee of Privileges the question as to what construction should be put on the expression "precincts of the House" as regards the Madras Legislative Assembly.

Accordingly, the Committee of Privileges met on the 4th April 1955, and decided to obtain information on the principles that have been generally adopted in deciding what exactly constitutes "precincts" in other countries, especially Canada.

I shall, therefore, be thankful to you if you will kindly let me know by return of post the principle or principles that have been adopted in deciding what exactly constitutes "precincts" in the House of Commons, Canada.

Thanking you.

(2)

Gist of the opinion of Law Clerk, House of Commons, Canada, sent with the letter, dated 8th June 1955, from Clerk of the House of Commons, Canada, Ottawa.

In 1886, Speaker Wallbridge of the Legislative Assembly of the Province of Canada in reprimanding and committing to the care of Sergeant-at-Arms during the pleasure of the House the